

APPEAL NO. 022115
FILED SEPTEMBER 26, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 19, 2002. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) compensable injury of _____, does not include an injury to the lumbar spine and that the claimant had disability, as a result of her compensable right knee injury from _____ to February 20, 2002. In her appeal the claimant asserts that the injury and disability determinations are against the great weight of the evidence. In its response, the respondent (self-insured) urges affirmance.

DECISION

The hearing officer's decision has become final pursuant to Section 410.169, because the claimant's appeal was not timely filed with the Texas Worker's Compensation Commission (Commission).

The applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §143.3(c) (Rule 143.3(c)), requires that an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Section 410.202 was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. The hearing officer's decision was distributed on July 24 2002. Pursuant to Rule 102.5(d), the claimant is deemed to have received this decision on July 29, 2002. In accordance with amended Section 410.202, the appeal was due on August 19, 2002. The claimant's appeal was faxed to the Commission at 6:02 p.m. on August 19, 2002. The appeal was also mailed to the Commission; however, it is postmarked August 20, 2002. Rule 102.3(e) states that "[u]nless otherwise specified by rule, any written or telephonic communications required to be filed by specified time will be considered timely only if received prior to the end of normal business hours on the last permissible day of filing," Rule 102.3(d) provides that "[a]ny written or telephonic communications received other than during normal business hours on working days are considered received at the beginning of normal business hours on the next working day." Finally, Rule 102.3(c) establishes that "[n]ormal business hours in the Texas workers' compensation system are 8:00 a.m. to 5:00 p.m. Central Standard Time with the exception of the Commission's (city 1) field office whose normal business hours are 8:00 a.m. to 5:00 p.m. Mountain Standard Time." Both the faxed copy and the mailed copy were filed on August 20, 2002, one day late. Thus, the appeal is untimely and, by operation of Section 410.169, the hearing officer's decision has become final.

The true corporate name of the self-insured is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

**RM
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Veronica Lopez
Appeals Judge